

THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

UNITED STATES OF  
AMERICA,

Plaintiff,

v.

MICHAEL DOUGLAS  
NAILEN,

Defendant.

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Case No. 3:19-cr-3 (1)

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Judge Walter H. Rice

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ORDER OVERRULING MOTION (DOC. #43) AND SUPPLEMENTAL  
MOTION (DOC. #47) FOR COMPASSIONATE RELEASE OF  
DEFENDANT MICHAEL DOUGLAS NAILEN AS MOOT GIVEN  
DEFENDANT IS NO LONGER INCARCERATED

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Before the Court is the Motion (Doc. #43) and Supplemental Motion (Doc. #47) for Compassionate Release of Defendant Michael Douglas Nailen. On January 10, 2020, Defendant was sentenced to eighty-four months imprisonment after pleading guilty to one count from the Indictment. (Judgment, Doc. #38, citing Indictment, Doc. #16). On February 1, 2021, and February 23, 2021, Defendant filed the Motion and Supplemental Motion, respectively, under 18 U.S.C. § 3582(c)(1)(A), as amended by the Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person Act ("First Step") Act of 2018, Pub. L. 115-391, 132 Stat. 5194. While the Motion was pending, Defendant was released on November 25, 2022.<sup>1</sup> A case becomes moot if "the issues presented

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<sup>1</sup> [https://www.bop.gov/mobile/find\\_inmate/index.jsp#inmate\\_results](https://www.bop.gov/mobile/find_inmate/index.jsp#inmate_results) (last accessed Jun. 27, 2024).

are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *Murphy v. Hunt*, 455 U.S. 478, 481 (1984) (citation omitted). A motion for compassionate release seeks relief not from the judgment *in toto*, but from the confinement imposed as part of the judgment. "When a prisoner is released from custody, the motion for compassionate release becomes moot because there is no further relief this Court can provide[.]" *United States v. Sanchez*, No. 16-cr-2077, 2021 WL 5999764, \*1 (S.D. Cal. Dec. 17, 2021) (collecting cases), and there is no longer a "live" and redressable issue pending before the Court. *See, e.g., United States v. Hernandez*, 845 F. App'x 921, 921 (11th Cir. 2021) (*per curiam*) ("Completion of a prison term moots a challenge to the term of confinement.").

As Defendant has completed his term of confinement, his Motion no longer presents a live case or controversy, and the Court is without jurisdiction to hear it. U.S. Const. art. III § 2. Accordingly, the Motion is OVERRULED AS MOOT.<sup>2</sup>

The captioned case remains terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

IT IS SO ORDERED.

  
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WALTER H. RICE, JUDGE  
UNITED STATES DISTRICT COURT

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<sup>2</sup> Also, the Court, having considered the factors for granting compassionate release set forth in *United States v. Tomes*, 990 F.3d 500, 502 (6th Cir. 2021), concludes that Defendant would not have been eligible for release while he was incarcerated, as he met none of the "extraordinary and compelling reasons" for release promulgated by the Sentencing Commission. U.S.S.G. § 1B1.13(b).